

CITY OF MORGAN HILL
REGULAR CITY COUNCIL AND
SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES - MARCH 15, 2000

Mayor/Chairman Kennedy called the meeting to order at 7:08 p.m.

ROLL CALL

Present: Council/Agency Members Chang, Cook, Sellers, Tate and Mayor/Chairman Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor Kennedy, Mayor Pro Tempore Tate led the Pledge of Allegiance.

CITY COUNCIL REPORT

Mayor/Chairperson Kennedy addressed his recent trip to Washington D.C. He stated that he attended the Legislation Conference as a member of the Valley Transportation Authority. Congress was lobbied on issues of concern in Silicon Valley. He focused his presentation to members of Congress on improved access to the rail system and the acquisition from the Union Pacific Railroad by either outright purchase or access rights for major projects as follows: increase Caltrain services to Morgan Hill, Gilroy and San Martin (this effort has been stalled as Union Pacific Railroad (UPR) has been unwilling to negotiate in good faith); Vasona Corridor would allow the VTA to extend light rail to Los Gatos and Campbell (also stalled by UPR); and Bart Connection from Fremont to San Jose to acquire a commuter rail route so that a connection can be made on an interim basis using heavy rail/commuter rail, extending Bart to San Jose. Also, discussed were various appropriation issues insuring that the VTA and the Metropolitan Transportation Commission receives its fair share of federal funding to help support highway projects as well as transit projects.

INTERIM CITY MANAGER'S REPORT

Interim City Manager Tewes did not have any additional City Manager items to report other than the extensive items listed on the agenda this evening.

INTERIM CITY ATTORNEY'S REPORT

Interim City Attorney Leichter did not have a City Attorney report to present this evening.

PUBLIC COMMENT

Jeff Burnham, Chase Printing, informed the City Council that two years ago he purchased an acre of land zoned light industrial off of Church Street in order to construct a new building and continue his business in Morgan Hill. He contacted Planning in August 1999 for guidance in the construction of the building. His architect contacted the city to design a building that exceeds city requirements. He has submitted three different sets of plans and all three designs have been turned down because planning staff would like his light industrial building to be designed like a house structure in order to blend in with the community on Church Street. He requested City Council assistance in finding out why his design is being rejected.

Mayor Kennedy requested that Interim City Manager Tewes follow up with Mr. Burhnam's concern. He indicated that the City Council values its businesses and works with them to ensure that they succeed.

Interim City Manager Tewes informed the City Council that a meeting will be held on Friday with Mr. Burhnam to respond to his questions and that staff would report back to the City Council.

John Dossetti felt that staff's recommendation was inappropriate as you cannot match an industrial building to an existing housing stock.

No other comments were offered.

City Council Action

CONSENT CALENDAR:

Council Member Tate recommended that the appointments to the Senior Advisory Committee be announced (Item 7) and Council Member Cook recommended that Consent Item 8 be considered with Agenda Item 10.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **approved** Consent Calendar Items 1-6 as follows:*

1. FEBRUARY FINANCE AND INVESTMENT REPORT

Action: ***Accepted and filed** report.*

2. FISCAL YEAR 1999/00 MID YEAR BUDGET ADJUSTMENTS

Action: ***Approved** Proposed Mid Year Adjustments.*

3. ACCEPTANCE OF PUBLIC IMPROVEMENTS FOR CENTRAL PARK PH. III (TRACT 9072) - Resolution No. 5358

Action: *1) **Adopted** Resolution No. 5358 Accepting the Public Improvements for Tract 9072, commonly known as Central Avenue - Central Park Ph. III, and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.*

4. **SENATE BILL 402 – COMPULSORY AND BINDING ARBITRATION - Resolution No. 5362**

Action: *Adopted Resolution No. 5362 in Opposition of Senate Bill 402.*

5. **RESOLUTION OF INTENT TO VACATE A PORTION OF KEITH WAY AND SETTING TIME AND PLACE FOR THE PUBLIC HEARING - Resolution No. 5359**

Action: *1) Approved Resolution No. 5359, Resolution of Intent to Vacate a Portion of Keith Way, thereby Setting April 5, 2000 at 7:00 p.m. in the Council Chambers as the Time and Date for the Public Hearing, and 2) Directed the City Clerk to Publish the Resolution of Intent as Required by State Law.*

6. **RECRUITMENT FOR THE POSITION OF CITY ATTORNEY**

Action: *Confirmed the Mayor's Appointment of Mayor Pro Tempore Tate to Serve on a Two-person Subcommittee of the City Council to Review Proposals and Recommend a Contract and Recruitment Process for a City Attorney for Consideration by the Full Council.*

7. **APPOINTMENTS TO THE SENIOR ADVISORY COMMITTEE**

Recreation Manager Spier presented the staff report and informed the City Council that the Parks and Recreation Commission are recommending City Council appointment of Doris Batement and Jane Blisset to the Senior Advisory Committee.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Chang, the City Council unanimously (5-0) Approved Recommended Appointment by the Parks and Recreation Commission of Doris Batement and Jane Blisset to Vacancies on the Senior Advisory Committee to May 2001.*

OTHER BUSINESS:

9. **REPORT ON MEDICAL SERVICES FEASIBILITY STUDY**

Interim City Manager Tewes presented the staff report and identified the process that would take place the next few weeks, including considerable community discussion about the report as the issues contained in the report are significant.

Wanda Jones, principal with the H.O.M. Group, presented a summary of the Morgan Hill Medical Services study prepared by her firm.

Mayor Pro Tempore Chang noted that Coyote Valley, at 2020, will have a population of 75,000 individuals. This population will be twice that of Morgan Hill. She asked if the 38% for Coyote Valley should be doubled. If doubled, it would result in the need of 99 beds.

Jim Ensigne, H.M.O. Group, responded that Coyote Valley is not being compared with Morgan Hill but that Coyote Valley is being compared with four zip codes that include Morgan Hill, Hollister,

Gilroy and San Martin.

Ms. Jones stated that Coyote Valley is not a dramatic increase if it were being compared with Morgan Hill. Another factor to take into account is that the age mix of Coyote Valley is expected to be much younger. Therefore, you would not see a doubling or tripling in medical demand.

Council Member Chang felt that there would be a difference in the projection in the year 2020. She noted that a Hollister zip code was included with 2.3% patients using the Morgan Hill medical facility. She inquired about an assimilation model that would result if it was modified to include Gilroy, Morgan Hill and San Martin, incorporating Coyote Valley in the year 2020.

Mr. Ensigne said that if you removed Hollister from the model, it would eliminate the 2.3% population that makes up part of the patient day that would be accumulated at St. Louise. Taking Hollister out would result in a number that is slightly less than is being projected and that it would not make much of a difference. Taking individuals out of the equation would result in fewer bed days.

In response of Mayor Kennedy's question, Interim City Manager Tewes said that it would be possible to include additional scenarios in the time frame of the process and that staff would work out the additional cost for the additional scenarios with the consultant.

Mr. Ensigne said that eliminating Hollister because it contributes fewer patients to the mix and adding other zip codes in the San Jose area, would result in no zip codes that produce as many patients as Hollister.

Ms. Jones referred to the first page of the hand out that includes additional scenarios based on the request of the Mayor and Interim City Manager Tewes which increased the market share from 20% to 30% over 20 years at 70% occupancy and holding the use rates at the 2000 level rather than continuing their decline. The bed numbers change but you still do not have a size that represents a viable hospital. The Council needs to address the fact that the two hospitals are the smallest in Santa Clara County. Urban areas do not sustain small hospitals as they cannot recruit employees or physicians nor sustain the same array of services that larger hospitals provide. The Council needs to address the medical care aspect of the study. A modern hospital has to be in the 150 to 200 bed range to have a full complement of services. If you do not provide full service, the population will seek out these hospitals. She said that the zip code analysis show that the majority of residents seek out larger hospitals.

Mayor Pro Tempore Tate noted that the report states that in 20 years, a hospital will be obsolete and that it would be better to start from scratch. He said that there are a lot of older hospitals that have not moved or modified their facilities.

Ms. Jones responded that there is a difference between not falling down and being functionally modern. The changes occurring deal with bed sizes. When the two south county hospitals were built, the average square footage per bed was approximately 180 square feet. The medical field is now moving toward universal rooms that are sized at an intensive care unit size of 240 square feet per bed.

She said that you cannot retrofit an old hospital to this size.

Ms. Jones indicated that data was gathered from 1994 to 1998 for all of the hospitals in Santa Clara in order to show that the majority had declining census and that the majority had financial losses. Los Gatos Community Hospital was also experiencing the same defused market relationships as is being seen in Morgan Hill. One of the unique characteristics of the hospital is its rehabilitation services that occupies a good portion of the hospital. This is one of the reasons why the medical/surgical demand is not dramatic. She said that an outpatient visit is needed to make a medical facility successful and that it varies based on the services being provided. As patient days decline, you will see ambulatory visits increase. Most diagnostic and treatment services are moving to out patient setting to the degree that they can.

Mayor Kennedy opened the floor to public comment.

The following individuals yielded their time to Bill Brown and/or Dr. Roussere: Peggy and Deke Descoteaux, Thelma Van Horn, Rex Myers, Marie Skinner, Brooke Carlson, Dennis Mitchell, Robert Costa, Marian Smith, Jack Powers, Earle E. Pierce, Bob Conlan, John Khan, Shirley Higdo, and Buna Gil.

Dr. Roussere presented a medical perspective of public health in regards to the preservation of a hospital and a plan for the health care needs for members of the community. The City is being asked to assume the responsibility of protecting public health. The Morgan Hill hospital site has unique characteristics that makes it the only reasonable choice that is practical and economical for health services needed in the community. The building was designed for the sole purpose of taking care of the sick and the injured. To rebuild a hospital that meets the legal specifications of a hospital would be an astronomical cost. Because government participates in healthcare, hospitals become quasi public facilities. The medical feasibility study claims that an acute care facility will not be needed in Morgan Hill for another 20 years. Several factors suggest that this is not true. No consideration was given in the study to a natural disaster, highway or industrial accidents, terrorist activities or other large scale casualty incidents. The regional hospital has demonstrated an inability to serve all patients under normal conditions. There is no guarantee that the regional hospital can maintain its accreditation. Without an appropriate facility in Morgan Hill, doctors will not be able to be recruited. He noted that there are no OB/GYN doctors in Morgan Hill as they will not practice where there is no delivery facility. With a medical hospital, Morgan Hill will be able to keep its current supply of doctors and be able to recruit doctors. Many individuals are concerned with protecting Morgan Hill's financial interests. He said that a consortium has been formed that would raise the capital to purchase the operation of the hospital and run it in an economical manner. He requested that the City Council help the community do what is right and appropriate to provide health care services.

Council Member Chang noted that for a population of 30,000, there are only two pediatricians, no OB-GYN physicians and six general practitioners in Morgan Hill.

Bill Brown stated that the purpose of government is to provide safety and good health care for its citizenry. He was not suggesting that the City Council be in the health care business but that it

establish the circumstances that will allow the public to be properly served by those who will provide the services that are needed. In 1983, the city was approached by Catholic Healthcare West (CHW) and the city approved the construction of the hospital. He requested that the Council not be taken up by the study it just received. He addressed a plan that will preserve the facility and the healthcare at the level that the community has had and expand upon it. He addressed alternative 1c, a proposal by a group willing to acquire the facility. The owners will be a limited liability company made up of doctors and other local investors who want to preserve the hospital with no liability to the City. However, the City is needed to make the facility available to the LLC group through a condemnation proceeding. The LLC to be formed would lease the north end of the building to doctors. A senior care group will be located in the south end of the facility to provide senior care, health and housing. There are at least two health providers willing to use the hospital portion of the building (center of the building) to provide certain levels of in hospital and ambulatory services. It is not proposed that the hospital be an acute care hospital at this time but that it is hoped that a need will exist in the future. If so, the facility should be made available to allow the resurrection of an acute care hospital. He expressed concern with the "obsolescence" concept as many old hospitals are still in existence and still in operation. Existing facilities are upgraded to keep them productive and allow them to continue to provide much needed services. He said that there is a Silicon Valley company interested in preserving the hospital and will be a deep pocket for the cost of the hospital. The LLC will not have a need for a loan from the city to move forward with the process as was originally thought. He stated that he would be willing to return with a proposal that will allow the city to continue the use of the hospital in its current configuration without the City being placed in any risk for any possible miscarriage or possible losses that may result. The community cannot afford to lose the facility as it will result in the loss of the physicians and that without the physicians, there would be no health care services. He requested that the Council accept the LLC proposal and retain the hospital as it is needed by the community.

Council Member Cook noted that it is being stated that the LLC group does not need city financial assistance. She asked if the investment group was willing, in perpetuity, by a deed restriction or other mechanism, to state that the hospital would be the only use so that the community is not placed in the same position again?

Mr. Brown responded that he did not believe that this is an acceptable nor a responsible request to make. He did not believe that deed restrictions were needed and that there should be as much latitude as possible.

Council Member Cook felt that if the LLC group expects assistance from the City Council to use their powers that the city should get something in exchange. Mr. Brown responded that the city will get health care for its citizens, hopefully, in perpetuity.

In response to Council Member Chang's question, Interim City Attorney Leichter indicated that the current zoning is PUD for a hospital facility and that the City Council would have to approve a zone change to allow any other use.

Mayor Pro Tempore Tate stated that one item that came out of the report is consideration that someone needs to be in charge. Mr. Brown said that the LLC would be in charge of the property but

that it would not be responsible for the delivery of health care services. The LLC would lease out the facility to separate entities who would be responsible for the delivery of health care services. He said that the hospital cannot be condominiumized as there would be problems to revert it back to an urgent care hospital. The concept is to keep the hospital ownership within the LLC made up of local physicians and local health care providers and local investors who have the best interest of the community in mind. Should it be possible and needful for an urgent care hospital, leases can be terminated and the facility can revert back to an urgent care hospital.

Dan Doore, hospital administrator, Tennant Healthcare Systems, stated that his company is interested in working with the doctors of the community, city officials and the community at large in developing and providing appropriate medical and healthcare services in the community. He stated that he is willing to pursue Mr. Brown's approach as it appears to be a viable one. He also felt that there other viable options. He expressed a strong personal and company interest in continuing in working with the city to satisfy the community's and the doctors' need to develop the appropriate medical services. He said that if there is an interest among the doctors to provide a full scope of services, it can be provided over time. He stated that he is committed to staying in the community and carrying out the project.

Jim Raudlett, public relations consultant, informed the City Council that he represents a group interested in participating with the city, physicians and other members in the community to maintain the operation of the general acute care facility in Morgan Hill. His group is willing to purchase or lease the facility at market rate in order to retain a hospital license and to operate the facility as a general acute hospital, and highly specialized operation. His group is prepared to undertake this activity immediately and that they are prepared to work with physicians in the community. The local physicians would be allowed to use a portion of the hospital and the surrounding areas for their purposes. This would also apply to a nursing home use as his needs will not require full use of the facility. The same would apply for a 24-hour urgent care use. He is prohibited from releasing the identity of the entity interested in the facility due to a confidentiality agreement. If allowed to purchase the property, his firm would not look for city financial support. He said that his firm would be willing to turn back the property to the community should the project fail or the market change.

Bernie Mulligan noted that the study shows that the building has a life span of approximately 20 years before it becomes obsolete. He did not believe that the building becomes obsolete as minor alterations, state of the art equipment, and qualified care providers remove the obsolete characteristics. He requested that the zoning on the property be retained as medical facilities. He recommended that the City Council take the current business plan and modify it, as necessary, it to bring into fruition.

Glenda Garcia shared her vision of Morgan Hill. She requested that the City Council give the LLC team a chance to present its business plan and its vision of providing a hospital for Morgan Hill as a hospital brings value to a community.

Deborah Africa, a resident of Morgan Hill and registered nurse at Community Hospital at Los Gatos, indicated that she is a former manager of the emergency department and the intensive care unit at

South Valley Hospital. She said that South Valley Hospital had an average census of approximately 40 to 45 patients prior to the merger. On a busy day, the census goes up 60 to 65 patients. With the merger, the census has gone up 100 to 120, overloading the system. This results in the emergency department going into code red where ambulance traffic is diverted to another facility. She felt that there is a dire situation in times of overload that does not even address a disaster situation. Another factor not taken into consideration in the Feasibility Study is the mass exodus of nurses from St. Louise Regional Hospital. There is a concern with the lack of adequate medical care in south county at this time. She felt that there was an opportunity for the City to help rectify the concern.

Jim Wright said that he visits with senior citizens at the senior center and that health care services is near the top of their list of importance.

Kathy Smith, a 40-year Morgan Hill resident, expressed concern with the issues facing senior citizens. She said that young individuals use the medical facility when the hospital opened. She asked if aging of the population was taken into account in the Study. She asked if Cisco or other companies were asked what kind of medical coverage they would provide their employees and what percentage of their employees would be selecting non-Kaiser facilities, such as a hospital in Morgan Hill?

Dennis Pinion said that the issue will come down to a zoning decision. He noted that any zoning decision will require a finding be made relating to furthering the health and general welfare of the community. He felt that maintaining a hospital in Morgan Hill would make it easy to make this finding. Given that there are individuals eager to provide health services, he did not know why the medical facility could not continue. He felt that healthcare goes beyond a business issue. He said that it is being stated that hospitals are losing money, noting that the money comes from the community.

Wil Jones indicated that he is a 12-year Morgan Hill resident and a former controller for O'Connor Hospital. He has some ambivalent feelings both in support of San Jose Bible 's purchase of the property and the needs of the community with regards to healthcare. He said that the study shows that support for an acute hospital in Morgan Hill does not exist. He expressed concern that should the City of Morgan Hill enter into an arrangement that is going to be financially responsible for an entity occupying the property, it was his belief that this would be a grave mistake. Healthcare West realized that with the consolidation of two hospitals that it would not be making a profit. He did not believe that the city should stop the sale of the property but that if the sale is to be made, the city has the responsibility to ask Healthcare West to return the subsidies as well as the tax free status that the city has given to it. These funds to be given back to the community to address the needs of the community.

Joe Epp stated that it is difficult to access St. Louise Regional and that in an emergency situation, access is critical.

No other comments were offered.

Council Member Chang recommended that three zip codes be used, eliminating Hollister's zip code, This would give the study a different projection. She recommended that the consultant perform an

analysis of whether a new aspect of the hospital can achieve 30% versus 20%, taking into account the growth of Coyote Valley (increase market share in Coyote Valley).

Mayor Kennedy also requested that the consultants look at a different scenario for the growth of Coyote Valley.

Council Member Cook felt that Mayor Kennedy and Council Member Chang were putting great emphasis in Coyote Valley residents coming south to utilize medical facilities in Morgan Hill. She expressed concern that plans for development of the urban reserve in Coyote Village will create its own village and city setting, including neighborhood stores, dry cleaners and planned medical healthcare facilities. She noted that Coyote Valley will be close to other urban services to the north. She wanted to understand the assumptions that make the Council feel that it will capture the market share from Coyote Valley.

Council Member Chang said that she anticipates that Morgan Hill can capture a low percentage of the market share from Coyote Valley. She noted that the closest medical facility to Coyote Valley is downtown San Jose or Good Samaritan medical facilities.

Mayor Kennedy felt that the consultants have made an assumption and that it is not known if it is the correct assumption. He would like to see the report address several different assumptions for Council consideration. It does not mean that the scenario he requested is any more valid than the consultants but that it would provide a broader range of options to look at.

Council Member Chang said that the report shows that 28% of Morgan Hill non-Kaiser residents use the St. Louise medical facility. The model used in the report indicates 20%. One of the proposals presented this evening proposes an alternative medical use versus the traditional St. Louise use. She felt that this scenario would increase the market share.

Council Member Cook stated that in listening to the consultant, it is the number of beds that drives the quality of a hospital. She felt that individuals make personal choices in selecting medical facilities as it is a market driven choice.

Council Member Chang felt that 20% is a low percentage for Morgan Hill residents who would use the facility. She requested that a 30% projection be used as she does not believe that this percentage is too high of an expectation.

Mayor Pro Tempore Tate felt that at the April 5 meeting, valuable input will be provided by the public and that questions will be raised that will require further answers. He felt that a couple of study sessions may be needed to bring this issue together.

Council Member Sellers agreed that this will be a longer process as the City Council will need to make policy decisions and direct staff to begin the process. He acknowledged that this is a significant issue, one that everyone is determined to deal with satisfactorily. He appreciated community input and looks forward toward additional input from the community. He recommended that the City Council defer its comments and thoughts until it has had time to consider public comments.

Mayor Kennedy asked staff and the consultant about a two track approach to deal with this issue. Interim City Manager Tewes said that there can be two phases to the feasibility report: discussion regarding the range of medical services that are needed and appropriate for the Morgan Hill Community; and a second phase that would identify specific options within this range. The study can go into greater depth to evaluate business plans, identifying what market shares would be achieved to evaluate proposals and test the credibility of the business plans.

Action: *On a motion by Council Member Cook and seconded by Council Member Sellers, the City Council unanimously (5-0) **Accepted** the Report Evaluating the Feasibility of Retaining/providing Medical Services in Morgan Hill, incorporating the additional scenarios as stated by Mayor Kennedy and Council Member Chang.*

Action: *On a motion by Council Member Cook and seconded by Council Member Sellers, the City Council unanimously (5-0) **Directed** Staff to Disseminate and Circulate the Report for Public Review and Comment.*

Council Member Cook said that the report defines general concepts. She was not sure if concepts would change with further analysis. She felt that the report may help the Council decide what role it wants to play. She felt that the report would be useful in its format with minor modifications.

Council Member Chang noted that Mr. Brown is proposing option 1c. She stated that she could not make a decision on alternative proposals without receiving and reviewing additional information.

Mayor Pro Tempore Tate said that once the Council hears from public, alternatives may be identified.

Interim City Manager Tewes informed the Council that an addendum was distributed to the City Council addressing some of the scenarios. He said that Council Member Chang's scenario can be presented in advance of the Council's April 5 meeting.

Council Member Cook recommended that the study be made available to the public at various locations throughout the community.

Mayor Kennedy directed staff to distribute the study throughout the community.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Agendized** the Report for the April 5, 2000 City Council Meeting for the Purpose of: a) Hearing and Soliciting Public Comment, b) Making Policy Decisions regarding the Retention/provision of Medical Services in the Community, and c) Directing Staff on How to Proceed with Implementing the Adopted Policies.*

PUBLIC HEARINGS:

10. GPA 98-03: ZONING APPLICATION ZA 99-12: COCHRANE - MORGAN HILL

DEVELOPMENT PARTNERS - Resolution No. 5363 and Ordinance No. 1474, New Series

Senior Planner Banks presented the staff report and summarized the proposal before the City Council as identified in revised Exhibit A. Exhibit A lists both the Planning Commission's recommendation and staff's alternative recommendations. He noted that a revised mitigated Negative Declaration was distributed to the City Council due to a modification made by the Planning Commission to the R&D in areas 1 and 2. He noted that a letter was received from the California Department of Fish and Game regarding the burrowing owl mitigation. The mitigation measure requires that the applicant enter into an agreement with the Fish and Game Department in accordance with the requirements contained in the Ojo de Agua Redevelopment Plan EIR. Staff believes that the mitigation required and contained in the expanded initial study is appropriate and in accordance with the Ojo de Agua EIR.

Mayor Kennedy stated that for a long period of time he has been supportive of mixed use projects which include housing. He requested that staff explain its support for additional housing. Senior Planner Banks stated that staff is concerned with leaving the EAH project an isolated residential pocket in an industrial area.

Mayor Kennedy stated that the Council has received criticism that housing in this area is located in the wrong place. He disagreed with this statement because if you have a large number of apartments, it can work. He asked if staff foresees a problem with the inclusion of additional housing in this area? Senior Planner Banks stated that staff supported additional housing in this area and felt that housing can be made compatible with the R&D uses to the south and that the extension of Jarvis would make an appropriate buffer between residential and non residential uses.

Council Member Cook stated that one reason for allowing EAH to develop a residential project was the fact that individuals would reside and work in the Business Park. She asked how many individuals actually live and work in the Business Park? Council Member Chang responded that 8% of the residents live and work in the Business Park.

Mayor Pro Tempore Tate asked if light industrial and office uses can be compatible with the existing housing project? Senior Planner Banks said that offices are permitted in the R&D and that there are provisions contained in the zoning that would allow the Community Development Director to approve other uses deemed similar to those listed as permitted uses. He indicated that proposed uses would be evaluated as part of the site review process for individual projects in order to provide an appropriate buffer between the uses.

Council Member Sellers expressed concern with maintaining the integrity of the existing EAH project as well as integrating it with the other uses.

Mayor Kennedy opened the public hearing.

Robert Eves, Venture Corporation, noted that Morgan Hill Ranch is Morgan Hill's largest and finest

business community and that it is the home of the largest employers in town. He stated that Morgan Hill Ranch is not a housing development. There was a lot of housing contemplated for Morgan Hill Ranch at one time, including a small golf course. Morgan Hill Ranch has evolved as more and more companies have relocated to the Business Park and the need for housing has been redirected to other areas in the city. He felt that this gateway area should be protected and defended for a high tech business opportunity and not expand on the existing residential project. The General Plan Task Force has determined that Morgan Hill has a 25 year supply of housing land and a vastly declining supply of industrial land. Individuals are now looking at the prospect of rezoning agricultural lands to create additional industrial lands in Morgan Hill. He said that the Cochrane Village Apartments was brought to him initially at the request of Abbott Laboratories. He supported the request at the time because it made sense to provide housing to individuals who work in Morgan Hill Ranch. He felt that initially, it was a good idea. However, housing did not work. He did not recommend that the problem be exacerbated by adding additional housing to the area. He supports the Commission's opinion and believes that the application for housing and the assisted housing program should be denied.

Mr. Eves requested the area on Cochrane Road, from Marie Callendar's to Monterey Road, be changed to allow for R&D uses. However, he was not withdrawing his request for retail or office designation because it was his belief that it is possible for offices or retailers to locate in a portion of the area. He requested that an R&D designation be added. He stated that a grocery store is not proposed for this area. He distributed a letter from WT Mitchell Group, one of the most experienced shopping center developers in northern California. The letter states that in the past five years, his firm sought tenants to locate in an expanded retail center to be built in Morgan Hill Ranch. While Morgan Hill Ranch is an outstanding business community, there is inadequate housing in the area to support retail operations. Further, Morgan Hill's residential growth control ordinance precludes sufficient growth in northern Morgan Hill to make the site appealing for many years to come. He said that it is clear that a grocery store would not relocate to Morgan Hill Ranch and that he does not expect to attract a large grocery oriented retail company due to the lack of population in the area.

Mr. Eves addressed his vision for area 5. He felt that a large corporate electronic campus can be attracted. He would also like to keep open the possibility of attracting a large restaurant or a pad retail business such as a Kinkos or food corridor that would support the existing businesses. He is requesting that R&D zoning be added to the current uses in order to allow a new corporate campus to be built and retail to locate in this area. He noted that Anritsu is outgrowing its facility and that they are inquiring about the purchase of land across the street to accommodate the growth of their facility. He felt that it would be worth while to allow R&D uses in the area. He requested that he be allowed to move ahead with R&D uses in this area. He indicated that both staff and the Planning Commission are recommending that the northwest areas 1 & 2 to be strictly R&D. He stated that he would be willing to accept this recommendation, if supported by the City Council.

Mr. Eves stated that there is not a need to restrict the size of the R&D lots as he has been successful in attracting 33 companies thus far. Development in business parks are driven by market conditions and not by developers. Staff would like to reserve some of the land for larger companies. He did not disagree with the attraction of larger companies but that he felt that there is little to be gained by restricting the lot size. He said that staff has recommended a four acre minimum in area 8 and that the planning commission endorses this recommendation. Today, he learned that if the Council is to

determine that a size other than four acre minimum was to be selected, it would be necessary to take the map off the agenda, begin processing a revised map, resulting in the loss three to four more weeks in the process. For this reason, he stated that he would be prepared to accept the planning commission and staff's recommendation of four acre lot minimums in area 8 and the other lot sizes determined and described by staff. He would return to the Planning Commission and the City Council on another day with a proposal for consideration. He requested that the City Council adopt the Planning Commission's recommendation to eliminate further housing development and that in area 5, he be allowed to add R&D as an additional use but still be permitted to bring in retail if a retailer can be found.

Gay Quinne, Venture Corporation, addressed area 5 and Venture Corporation's position to add R&D to the existing zoning. She indicated that Venture Corporation is willing to accept staff's recommendation in order to not delay the approval of the tentative map.

Ronnie Warner, senior project manager for EAH, requested that the City Council reconsider the Planning Commission's recommendation that areas 1 and 2 not be residential. She said that there was an overriding concern when Cochrane Village Apartments was approved that it would remain an isolated island. This was also a concern of EAH. Development proceeded with the understanding that Cochrane Village Apartments would be the first of the residential to be built. This was EAH's assurance from Venture Corporation at that time. The City has made a significant investment into the apartments and that she would like to see the investment protected. She expressed concern that residents are living alone in the dark in a business park. She clarified that only 10% of the residents are employed in the Business Park, however, all of the residents either worked or lived in Morgan Hill at the time they applied for the project. She stated that there is a huge demand by employees to live in the business park, noting that over 800 applications were received for 96 units.

John Dossetti felt that the entire park should be designated as R&D, eliminating future construction of housing. He noted that other housing projects are being approved around the park. He said that small R&D buildings are needed but that they are not being built due to the acreage requirement.

Action: *On a motion by Council Member Cook and seconded by Council Member Chang, the City Council unanimously (5-0) **agreed** to extend the meeting to 12:00 a.m.*

Bernie Mulligan stated his opposition to housing in Morgan Hill Ranch. He noted that only eight residents of the apartment complex are employed by the Business Park. He stated his support for of the R&D zoning designation and that land should be made available to allow Anritsu to expand. He did not believe that further commercial development is needed. Approval of a grocery store would result in the cannibalizing of other grocery stores in town. He recommended that the industrial park be kept for its intended purpose.

Dennis Pinion stated that he supported residential development when it was first approved because he felt that it was necessary to attract Abbott Laboratories to the Business Park. However, he did not envision it to be the first phase of a larger development. He stated his support of maintaining a greenbelt area, improving the city's job/housing balance and its tax base. Regarding area 8, he noted that staff would like to reserve the area for larger users. He understood this desire but felt that it

would diminish the room available for smaller users which areas 1 & 2 can fulfill. A strong feeling was expressed by the Planning Commission that they were not supportive of additional housing. He felt that a grocery store in area 5 would result in strip commercial. He supported R&D uses in area 5 but that he did not object to allowing both R&D and commercial uses.

No further comments being offered, the public hearing was closed.

Area 1

Mayor Kennedy supported housing due to the fact that the EAH project exists and based on staff's recommendation.

Council Member Sellers did not believe that the existing 96 residential units necessarily impact the rest of the Business Park. He stated that he would like to designate some minor recreational facilities or other uses that would help the young children residing in the residential complex the opportunity to have these services closer to their residences.

Mayor Pro Tempore Tate stated that he was initially supportive of placing housing in the Business Park as it was the trigger that would make it take off. He expressed concern about leaving the existing housing project an island. However, he no longer believes that housing is the model that is required to fill the Business Park. Designating more housing units would result in having to go through Measure P with no guarantee when residential building allotments would be awarded. Therefore, he was leaning toward not supporting additional housing.

Council Member Chang supported retaining as much industrial land in the Business Park as possible. Therefore, she would not support additional housing. She would support the approval of mitigation measures that separates EAH from future R&D uses.

Council Member Cook stated that it was never her intent to state that there is not a need for affordable housing in the Business Park. She stated that she had an idea of what a neighborhood is and that she did not believe that this was or will ever be a neighborhood. As the recreational elements were taken out of the original plan, she did not want to compound the error she felt was already made. She did not support additional housing. She would like to see height and use restrictions adjacent to the residential housing project as she did not want to see buildings towering over the EAH project looking down at the residents.

Senior Planner Banks informed the City Council that the maximum height limit for R&D buildings is 50 feet and that the maximum height for multi family buildings is 30 feet.

Action: *It was the consensus of majority of Council **not to support** additional residential in the Business Park and **requested** that staff return with a mechanism to ensure that there is not a conflict between the apartments and the adjacent industrial buildings.*

Ms. Quinne stated that she would support a height not to exceed 35 feet as some R&D tenants need a different height clearance on the interior of the building. She also noted that there is a setback

requirement in the R&D that would require the buildings to be setback a great distance.

Action: *It was the consensus of the City Council that lots 1 and 2 are not to exceed the maximum height of the EAH apartment buildings.*

Area 5

Mayor Kennedy and Council Members Sellers and Tate supported allowing either commercial and R&D uses for area 5.

Council Member Cook asked if the issue of the railroad tracks relating to an 80 or 100 foot setback has been resolved? Senior Planner Banks stated that the appropriate setback requirements were included in the packet distributed last week with the Council report. He clarified that the requirement is that the office portion of a project would have to be 100 feet away from the railroad and that the industrial portion of the buildings could be built closer to the railroad tracks. He indicated that staff would contact a noise consultant and obtain a recommendation.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **Approved** the Mitigated Negative Declaration.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **Adopted** Resolution No. 5363 Approving General Plan Amendment, as amended.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the reading in full of the Ordinance No. 1474, New Series, Approving the Zoning Amendment.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1474, New Series by title only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 545, NEW SERIES, AMENDING THE PLAN AND TEXT TO THE DEVELOPMENT PLAN FOR THE PLANNED UNIT DEVELOPMENT LOCATED ON THE SOUTH SIDE OF COCHRANE ROAD BETWEEN MONTEREY ROAD AND HIGHWAY 101. APPLICATION ZA-99-12: COCHRANE-MORGAN HILL DEVELOPMENT PARTNERS per the Planning Commission recommendation, as amended, by the following roll call vote: AYES: Chang, Cook, Sellers, Tate: NOES: Kennedy; ABSTAIN: None; ABSENT: None.*

8. REVIEW OF TENTATIVE MAP APPROVAL FOR SUBDIVISION, SD-99-12: COCHRANE - MORGAN HILL DEVELOPMENT PARTNERS

Action: *By consensus, the City Council **Took No Action**, Thereby Concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.*

Mr. Eves informed the City Council that the Development Agreement for Morgan Hill Ranch will expire in Spring 2001. He would like to request Council support to allow him to work with staff to develop a new development agreement prior to the expiration of the current development agreement. The new development agreement would include a provision to contribute \$750,000 for the development of a new aquatic center.

11. APPLICATION AP-2000-01: W. DUNNE - TICHININ: APPEAL OF PLANNING COMMISSION APPROVAL OF USE PERMIT, UP-99-09: W. DUNNE - VALLEY TRANSPORTATION AUTHORITY - Resolution No. 5360

Director of Community Development Bischoff presented the staff report.

Interim City Attorney Leichter said that Municipal Code requires that when a City Council is hearing matters that are brought up from the Planning Commission upon appeal such as this application, if new evidence is raised that was not presented to the Planning Commission, the City Council has to move to hear the matter de novo. It was her belief that Mr. Tichinin raised some issues in his letter to the City Council that were not raised before the Planning Commission. She recommended that the City Council move to hear the matter de novo so that Mr. Tichinin can present new evidence, if he so wishes to do so.

Action: *On a motion by Council Member Cook, and seconded by Council Member Sellers, the City Council unanimously (5-0) **moved** to hear the appeal de novo.*

Council Member Cook noted that the staff report states that there will be no impacts on the natural environment but noted that a generator and a propane tank would be installed that would be visible to the surrounding community. Mr. Bischoff said that it has been indicated that these structures would be located behind the water tank and therefore would not be visible to anyone unless one is at the top of the site.

Captain Sullivan said that it is being proposed to replace the existing generator with a new, same sized tank. Therefore, there would be no additional impact to what currently exists. A tanker truck would have to service the tank and that it is believed that once the transfer of all equipment has been completed that only one service trip per year will be needed. VTA proposes to use the existing equipment currently being used by the police department. With the use of new technologies, there would be a consolidation of existing antennas with a net loss of two antennas on the current pole.

Mayor Kennedy opened the public hearing.

Bruce Tichinin, appellant, stated that he is aware that there will be a minor net reduction in the level of scenic pollution from this proposal. However, the danger that it presents is the precedent of starting to place new facilities on El Toro. This would be counter to the precedent that the Council stated six years ago when it required Nextel to locate their antenna on Nob Hill. He noted that City has received three applications in the last six years to place facilities on El Toro with this number increasing in future years. He did not believe that it has been demonstrated that it is infeasible to locate the facility anywhere other than El Toro. The City Council has not been given the level of

substantiation to VTA's position that should be demanded for a scenic resource of this value. If it is found that it would not be feasible to locate the antennas on Nob Hill, he recommended that it be investigated if the eastern foothill would accommodate the area of broadcast needed. He felt that El Toro protects the community and that it still remains a piece of wilderness that should be preserved for future generations.

Jim Unites, Valley Transportation Authority, indicated that he has worked with staff over the past year on developing this project. He stated that alternative sites have been reviewed in the south county area as part of a major rebuilding of communications network throughout the county. It was found that the El Toro site works well for VTA as it is the right height. He noted that El Toro has an existing communication site where VTA equipment can be installed, providing minimal impacts and decreasing the number antennas on site with a replacement building that would be slightly larger than the existing unsightly building. Approval would provide the city's police department with a new facility for their communication systems and would also provide additional radio equipment. He presented the City Council with schematic drawings of the existing and proposed antenna structures. He said that the existing 72-foot pole height would remain the same but that the number of antennas would be reduced by three.

Mr. Tichinin expressed concern that a precedent would be set for future requests to locate antennas on El Toro. He recommended that it be proven that the eastern foot hills or the Nob Hill site will not work.

No further comments being offered, the public hearing was closed.

Action: *Council Member Cook made a motion, seconded by Council Member Sellers to uphold the appeal.*

Council Member Cook expressed concern with the intensification of the use on El Toro. She stated that she would eventually like to see all uses eliminated from El Toro. She did not believe that the City would cripple VTA's operation if the communication facility was located on an alternative site.

Council Member Sellers stated that he would like to investigate whether the eastern foothills would satisfy the needs of VTA.

Mayor Pro Tempore Tate said that it has been stated that you cannot get the site lines to cover south county if you locate on the eastern foothills.

Captain Sullivan said that VTA has identified this site as the preferable site because of the configuration in the entire system and how the radios relay from the north end of the county to the south end of the county.

Mr. Unites said that this site would improve police, fire and emergency communications. He said that there are alternative sites that would work. However, this is a unique location where VTA is assisting the city in providing and improving its emergency communication system.

Vote: *The motion **failed** 2-3 as follows: Ayes: Cook, Sellers; Noes: Chang, Kennedy, Tate.*

Action: *On a motion by Council Member Chang and seconded by Mayor Pro Tempore Tate, the City Council, on a 3-2 vote with Council Members Cook and Sellers voting no, **Adopted** Resolution No. 5360 Upholding Planning Commission Approval of Conditional Use Permit, UP-99-09: W. Dunne - Valley Transportation Authority.*

Action: *On a motion by Council Member Cook and seconded by Mayor Pro Tempore Tate, the City Council, on a 4-1 vote with Council Member Chang voting no, **agreed** to extend the meeting time to 1:00 a.m.*

Redevelopment Agency Action

OTHER BUSINESS:

14. AGREEMENT FOR ARCHITECTURAL SERVICES FOR THE COMMUNITY AND CULTURAL CENTER

Director of Community Development Bischoff presented the staff report and indicated that staff has analyzed the fees and that although the fee appears to be high, it includes a lot of services that are not typically provided (e.g. furnishings, fitting and equipments, kitchen and acoustic consultants, geotechnical work, civil engineer). If you look strictly at what you would normally have within an architectural contract, the percentage would be 10% of construction costs which is not unlike what is being seen in industry these days. He indicated that staff would return at the next meeting with more details on the costs.

Mayor Kennedy felt that 10% was high for architectural services. He opened the floor to public comment.

Brooke Bailey recommended that the City Council take time to redesign the community center so that it benefits the entire community. She indicated that approximately 300 signatures have been collected in less than five hours supporting a different redesign approach that will serve families and children of the community.

Evelyn Kobayashi supported postponing the issue in order to take the time to get the design right. She said that a lot of things have changed since the design process began. It was her belief that there needs to be a complete overhauled design. She said that individuals have identified many of the serious flaws in the plans presented and that the design appears to be overcrowded. If a large banquet hall is built that does not meet the City Council expectations for frequent rental versus a multi purpose facility, the community would be deprived of the construction money devoted to a white elephant versus the possibility of having a full service, multi-purpose active community center for people of all ages. She felt that it would be unlikely that a 6,000 square foot facility with too many occupants and limited parking managed by the city would make the center economically viable.

Mayor Pro Tempore Tate requested that Ms. Kobayashi provide him with the list of flaws with the

current design.

Action: *By consensus, the City Council **Postponed** Action on the Agreement to the Redevelopment Agency Meeting of March 22, 2000.*

City Council Action

OTHER BUSINESS:

12. ADOPT RESOLUTION DECLARING THE CITY COUNCIL'S INTENTION TO FORM AN ASSESSMENT DISTRICT, AND ADOPT RESOLUTION APPROVING THE ENGINEER'S REPORT AND SCHEDULING PROTEST HEARING - Resolution Nos. 5356 and 5357

Interim City Manager Tewes presented the staff report. Mayor Kennedy opened the floor to public comments. No comments were offered.

Action: *On a motion by Council Member Chang and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) 1) **Adopted** Resolution No. 5356, Declaring the Intention to Form an Assessment District and Describing the District's Improvements and Boundaries, and 2) **Adopted** Resolution No. 5357, Preliminarily Approving the Engineer's Report and Setting a Time and Place for a Protest Hearing.*

13. CITY ATTORNEY RECRUITMENT

Interim City Manager Tewes presented the staff report. Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Chang and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Authorized** the City Manager to Accept the Proposal and **Execute** a Contract with John Shannon and Associates to Provide Executive Search Services in Connection with the Recruitment for the City Attorney Position.*

City Council & Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council/Redevelopment Agency Commission unanimously (5-0) **approved** Consent Calendar Items 15 and 16 as follows:*

15. JOINT REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL

MEETING MINUTES OF FEBRUARY 23, 2000

Action: *Approved the February 23, 2000 minutes as submitted*

16. JOINT REGULAR AND SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF MARCH 1, 2000

Action: *Approved the March 1, 2000 minutes as submitted*

CLOSED SESSION:

Interim City Attorney/Agency Counsel Leichter announced the following closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Legal Authority: Government Code Section 54956.9(a)
Title of Case: Perry v. City of Morgan Hill
Case Number: CV 776530
Court: Superior Court, County of Santa Clara
Parties: Dennis Perry
Subject of Litigation: Property damage
Closed Session Topic: Potential Settlement
Attendees: Councilmembers; Interim City Manager; Interim City Attorney.

2.

CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION

Legal Authority: Government Code 54956.8 & 54956.9(c) (1 potential case)
Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Mission View and Cochrane Road; and APN 728-31-009 - 12.88 acres located on the southeast corner of Cochrane and Highway 101 (St. Louise Hospital property)
City Negotiators: Agency Members; Interim Executive Director; Interim Agency Counsel; and F. Gale Conner, special counsel
Closed Session Topic: Potential Litigation

3.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Significant exposure to litigation pursuant to subdivision (b)(3)(E) of Government Code Section 54956.9: (1 case)
Attendees: Agency Board; Interim Executive Director; Interim Agency Counsel; Director of Business Assistance and Housing Services; Chief of Police, and William Strausz, special counsel

Mayor Kennedy opened the closed session items to public comment. No comments were offered.

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

No items were identified.

ADJOURN TO CLOSED SESSION

Mayor Kennedy adjourned the meeting to closed session at 12:20 a.m.

RECONVENE

Mayor Kennedy reconvened the meeting at 12:52 a.m.

CLOSED SESSION ANNOUNCEMENT

Interim City Attorney Leichter announced that no reportable action was taken on the above listed closed session items.

ADJOURNMENT: There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 12:54 a.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, City Clerk